

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED

JUN 07 2017


CLERK

In the matter of a subpoena issued
with regard to

17-050-04-04.

No. 4:17-mc-25

**APPLICATION FOR ORDER
COMMANDING MICROSOFT
CORPORATION NOT TO NOTIFY
ANY PERSON OF THE EXISTENCE
OF SUBPOENA/COURT ORDER**

Filed Under Seal

The United States, through Assistant United States Attorney Connie Larson, hereby requests that the Court order Microsoft Corporation not to notify any person (including the subscribers and customers of the account(s) listed in the subpoena of the existence of the attached subpoena until further order of the Court.

Microsoft Corporation is a provider of an electronic communication service, as defined in 18 U.S.C. § 2510(15), and/or a remote computer service, as defined in 18 U.S.C. § 2711(2). Pursuant to 18 U.S.C. § 2703, the United States obtained the attached subpoena, which requires Microsoft Corporation to disclose certain records and information to the United States. This Court has authority under 18 U.S.C. § 2705(b) to issue “an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems

appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order.” Id.

In this case, such an order would be appropriate because the attached subpoena relates to an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation, and its disclosure may alert the targets to the ongoing investigation. Accordingly, there is reason to believe that notification of the existence of the attached subpoena will seriously jeopardize the investigation, including by giving targets an opportunity to flee from prosecution, destroy or tamper with evidence, or change patterns of behavior. See 18 U.S.C. § 2705(b). Some of the evidence in this investigation is stored electronically. If alerted to the existence of the subpoena, the subjects under investigation could destroy that evidence, including information saved to their personal computers.

WHEREFORE, the United States respectfully requests that the Court grant the attached Order directing Microsoft Corporation not to disclose the existence or content of the attached subpoena, except that Microsoft Corporation may disclose the attached subpoena to an attorney for Microsoft Corporation for the purpose of receiving legal advice.

The United States further requests that the Court order that this application and any resulting order be sealed until further order of the Court. As explained above, these documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation.

Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Dated this 6th day of June, 2017.

RANDOLPH J. SEILER
United States Attorney

A handwritten signature in blue ink, appearing to read "Connie Larson", is written over a horizontal line.

Connie Larson
Assistant United States Attorney
P.O. Box 2638
Sioux Falls, SD 57101-2638
Telephone: (605)357-2362
Facsimile: (605)330-4410
E-Mail: connie.larson@usdoj.gov